

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JACQUELYN LANKFORD,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION NO.
v.	:	
	:	1:06-CV-325-MHS
FREDERICK J. HANNA &	:	
ASSOCIATES, P.C., and	:	
DEBBIE DOE,	:	
	:	
Defendants.	:	

ORDER

Presently before the Court is defendant's motion to dismiss for invalidity of service of process. For the reasons set forth below, the Court denies defendant's motion.

On February 14, 2006, plaintiff Jacquelyn Lankford filed a complaint against defendants Frederick J. Hanna & Associates, P.C. ("Hanna") and Debbie Doe. On March 6, 2006, plaintiff's counsel served the complaint and summons on James Freaney, an attorney employed by Hanna.

Hanna now moves to dismiss plaintiff's complaint pursuant to Fed. R. Civ. P. 12(b)(5) for failure to serve defendant Hanna with process. Hanna

argues that because it is a corporation, service must be made on an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process. Hanna contends that Freaney was not authorized to receive service on behalf of Hanna, and therefore Hanna requests that the Court dismiss without prejudice plaintiff's complaint.

Plaintiff argues in response that Freaney was a qualified agent for service of process because he was employed, and still is employed, with Hanna; he is one of the named attorneys on Hanna's letterhead; and Freaney regularly represents Hanna in state and federal actions. Plaintiff also argues that Freaney informed his corporate principal, Hanna, of the service of process upon him because Freaney, acting on behalf of Hanna, contacted plaintiff's counsel to engage in settlement negotiations. Alternatively, if the Court finds that the service of the summons and complaint was improper, plaintiff requests that the Court allow her to re-serve Hanna.

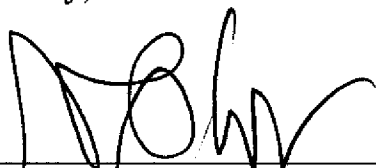
The Court finds that service was proper on attorney Freaney as a general agent for Hanna pursuant to Fed. R. Civ. P. 4(h). As an attorney for Hanna, Freaney was in a position to afford reasonable assurance that he would inform Hanna that process had been served upon him. See Henderson

v. Cherry, Bekaert & Holland, 932 F.2d 1410, 1412 (11th Cir. 1991).

Freaney's notice of the lawsuit to Hanna is evident from his attempts to act on Hanna's behalf to settle this case. The fact that Freaney was not Hanna's registered agent for service of process is not dispositive. See id. Freaney's position as a Georgia-licensed attorney for Hanna and his representation of Hanna in other lawsuits¹ are evidence that Freaney is a general agent for Hanna.

For the foregoing reasons, the Court DENIES defendant's motion to dismiss for invalidity of process [#3]. The Court will not award plaintiff attorneys' fees and costs incurred for responding to defendant's motion at this time.

IT IS SO ORDERED, this 5th day of May, 2006.


Marvin H. Shoob, Senior Judge
United States District Court
Northern District of Georgia

¹ See Hicks v. Frederick J. Hanna & Associates, et al., No. 1:04-CV-03606-WSD, filed in the Northern District of Georgia on December 13, 2004, where Freaney accepted service for Hanna.